



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

VIA FIRST CLASS MAIL

MAR 02 2005

Richard A. Wright, Esq.
Wright, Judd & Winckler
300 South 4th Street, Suite 701
Las Vegas, NV 89101

RE: MUR 5305
Bravo, Inc. d/b/a/ Rhodes Framing;
Rhodes Ranch General Partnership;
Rhodes Design & Dev. Corp;
James M. Rhodes

Dear Mr. Wright:

On February 15, 2005, the Federal Election Commission found that there is reason to believe Bravo, Inc. d/b/a/ Rhodes Framing knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a), and Rhodes Ranch General Partnership knowingly and willfully violated 2 U.S.C. §§ 441f and 441a(a)(1)(A), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Commission made these findings based upon information ascertained in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2). The Factual and Legal Analysis, which more fully explains the Commission's findings, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

Please note that your clients have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

26044132135

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

If you have any questions, please contact Jesse Christensen, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Michael E. Toner
Vice-Chairman

Enclosures
Factual and Legal Analysis

26044132136

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Rhodes Ranch General Partnership
Bravo, Inc. d/b/a/ Rhodes Framing

MUR 5305

I. GENERATION OF MATTER

This matter was internally generated by the Federal Election Commission (the "Commission") in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2).¹

II. BACKGROUND

Information generated during a Commission investigation reveals that contributions to Herrera for Congress ("the Herrera Committee") and Friends for Harry Reid ("the Reid Committee") by employees and spouses of employees of James M. Rhodes were made as part of a reimbursement scheme. These contributions were reimbursed with funds from three entities Rhodes either owns or has an equity interest in: Rhodes Design and Development Corporation ("RDDC"), Bravo, Inc. d/b/a Rhodes Framing ("Bravo"), and Rhodes Ranch General Partnership ("Rhodes Ranch").

During the period between April 24, 2001 and March 29, 2002, fourteen employees and spouses of employees at these entities contributed a total of \$27,000 to the Herrera Committee. These contributions are shown in the table below:

¹ All of the facts recounted in this agreement occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Federal Election Campaign Act of 1971, as amended (the "Act"), herein are to the Act as it read prior to the effective date of BCRA and all citations to the Commission's regulations herein are to the 2002 edition of Title 11, Code of Federal Regulations, which was published prior to the Commission's promulgation of any regulations under BCRA. All statements of the law in this agreement that are written in the present tense shall be construed to be in either the present or the past tense, as necessary, depending on whether the statement would be modified by the impact of BCRA or the regulations thereunder.

**RHODES CONTRIBUTORS'
CONTRIBUTIONS TO THE HERRERA COMMITTEE**

Date of Contribution	Name of Contributor	Employer/Occupation	Amount	Election Designation
4/24/01	James M. Rhodes	Rhodes Design	\$1,000	Primary
4/24/01	Donna Escoto	Rhodes Construction/ Director of Purchasing	\$1,000	Primary
4/24/01	Nancy D Kurtik	Rhodes Construction/ Director of Sales	\$1,000	Primary
4/24/01	Lori J Marko	Rhodes Construction/ Escrow Manager	\$1,000	Primary
4/24/01	Kathryn J Sanucci	Rhodes Construction/ Product Supervisor	\$1,000	Primary
6/30/01	Lori J Marko	Rhodes Construction/ Escrow Manager	\$1,000	General
6/30/01	Kathryn J Sanucci	Rhodes Construction/ Product Supervisor	\$1,000	General
6/30/01	James A Bevan	Rhodes Design/CFO	\$1,000	General
6/30/01	James A Bevan	Rhodes Design/ CFO	\$1,000	Primary
6/30/01	Nadine Giudicessi	Rhodes Design/ Controller	\$1,000	General
6/30/01	Nadine Giudicessi	Rhodes Design/ Controller	\$1,000	Primary
6/30/01	Dean L Griffith	Rhodes Design/ General Manager	\$1,000	General
6/30/01	Dean L Griffith	Rhodes Design/ General Manager	\$1,000	Primary
6/30/01	Dirk P Griffith	Rhodes Design/ General Supervisor	\$1,000	General
6/30/01	Dirk P Griffith	Rhodes Design/ General Supervisor	\$1,000	Primary
6/30/01	Margaret Hester	Rhodes Design/ HR Manager	\$1,000	Primary
6/30/01	Andrea J Zoanni	Rhodes Design/ Payroll Clerk	\$1,000	Primary
6/30/01	Andrea J Zoanni	Rhodes Design/ Payroll Clerk	\$1,000	General
6/30/01	Mona M Wilcox	Rhodes Framing/ Controller	\$1,000	General
6/30/01	Mona M Wilcox	Rhodes Framing/ Controller	\$1,000	Primary
12/17/01	James M Rhodes	Rhodes Design	\$1,000	General
3/29/02	Gary Giudicessi	Imperial Palace/ Hotel Security	\$1,000	Primary
3/29/02	Gary Giudicessi	Imperial Palace/ Hotel Security	\$1,000	General
3/29/02	Margaret Hester	Rhodes Design/ HR Manager	\$1,000	General
3/29/02	Kevin Hester	Ry/Sys Management/ Painter	\$1,000	Primary
3/29/02	Ronald E Gillette	Rhodes Homes/ Corporate Counsel	\$1,000	General
3/29/02	Ronald E Gillette	Rhodes Homes/ Corporate Counsel	\$1,000	Primary
		TOTAL	\$27,000	

As the chart reflects, despite their wide range of positions, the contributors all made the maximum contribution allowed by the Act.

26044132138

In addition to their contributions to the Herrera Committee, five of the contributors also made contributions to Friends for Harry Reid in 2001. The table below demonstrates these contributions:

RHODES CONTRIBUTORS' CONTRIBUTIONS TO REID COMMITTEE				
Date of Contribution	Name of Contributor	Employer/Occupation	Amount	Election Designation
6/29/01	Nadine Giudicessi	Rhodes Design/ Controller	\$1,000	General
6/29/01	Nadine Giudicessi	Rhodes Design/ Controller	\$1,000	Primary
6/29/01	Dean L. Griffith	Rhodes Design/ General Manager	\$1,000	General
6/29/01	Dean L. Griffith	Rhodes Design/ General Manager	\$1,000	Primary
6/29/01	Dirk P. Griffith	Rhodes Design/ General Supervisor	\$1,000	General
6/29/01	Dirk P. Griffith	Rhodes Design/ General Supervisor	\$1,000	Primary
6/29/01	James A. Bevan	Rhodes Design/ CFO	\$1,000	General
6/29/01	James A. Bevan	Rhodes Design/ CFO	\$1,000	Primary
6/29/01	Mona M. Wilcox	Rhodes Framing/ Controller	\$1,000	Primary
6/29/01	Mona M. Wilcox	Rhodes Framing/ Controller	\$1,000	General
		TOTAL	\$10,000	

III. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act"), prohibits any person from making a contribution in the name of another or knowingly permitting his or her name to be used to make such a contribution. 2 U.S.C. § 441f. The Act also limits to \$1,000 per election the amount that persons other than multicandidate committees may contribute to any candidate for federal office. 2 U.S.C. § 441a(a)(1)(A). Partnerships are considered "persons" under the Act. 2 U.S.C. § 431(11). Additionally, the Act prohibits corporations from making contributions or expenditures from their general treasury funds in connection with the election of any candidate for federal office. 2 U.S.C. § 441b(a). Section 441b(a) also prohibits any officer or director of any corporation from consenting to any contribution or expenditure by the corporation.

26044132139

The Act addresses violations of law that are knowing and willful. *See* 2 U.S.C. § 437g(a)(5)(B). Actions that are “knowing and willful” are those that were “taken with full knowledge of all of the facts and a recognition that the action is prohibited by law.” 122 Cong. Rec. H3778 (daily ed. May 3, 1976); *accord* *FEC v. John A. Dramesi for Congress Committee*, 640 F. Supp. 985 (D.N.J. 1986) (knowing and willful standard requires knowledge that one is violating the law). An inference of a knowing and willful act may be drawn “from the defendant’s elaborate scheme for disguising” his or her actions. *United States v. Hopkins*, 916 F.2d 207, 214-15 (5th Cir. 1990).

It appears that Rhodes acted with full recognition that the reimbursement scheme here was prohibited by law. Rhodes was a knowledgeable contributor, having contributed \$30,000 between 1997 and 2002 to various candidate and other committees. Beyond his general familiarity with campaign contributions, Rhodes had specific knowledge of the Act’s contribution limits. In October 1998, Rhodes made a \$2,000 contribution to the Jim Hansen Committee (“Hansen Committee”). The Hansen Committee subsequently refunded the \$1,000 excessive portion of Rhodes’ contribution. *See* FEC disclosure database. Thus, prior to orchestrating a scheme to give \$27,000 to the Herrera Committee and \$10,000 to the Reid Committee, Rhodes was fully aware that he could not give more than \$1,000 per election to a candidate’s campaign.

To carry out the reimbursement scheme, Rhodes asked RDDC employees Nadine Giudicessi (RDDC’s Corporate Controller) and James A. Bevan (RDDC’s Chief Financial Officer) to solicit other employees to make contributions to the Herrera and Reid Committees. Giudicessi and Bevan complied with Rhodes’ request, soliciting and collecting contribution

26044132140

checks from their fellow employees, and writing their own checks. Prior to making their contributions, each employee was promised that he or she would be reimbursed. Giudicessi asked one employee, Margaret Hester, to write a contribution check in her husband's name, explaining that Federal law only allowed a total of \$2,000 in contributions per election cycle.

To reimburse the contributions, Rhodes had five checks drawn from three entities in which he has either an ownership or partnership interest: RDDC, Bravo, and Rhodes Ranch. The five reimbursement checks were written as follows:

DATE	AMOUNT	PAYOR	PAYEE
4/9/01	\$5,000 00	RDDC	Cash
6/28/01	\$8,000 00	Bravo, Inc	Petty Cash
6/29/01	\$7,000 00	RDDC	Petty Cash
6/29/01	\$10,000 00	Rhodes Ranch	Cash
3/27/02	\$10,000 00	Rhodes Ranch	Rhodes Ranch

See Attachment 1. Petty cash accounts at the Rhodes entities routinely held only \$500, and petty cash transactions were typically less than \$50. Rhodes asked Giudicessi and Bevan to reimburse the contributions with the proceeds of these checks. A number of the conduit contributors did not have sufficient funds to cover their contribution checks and required immediate reimbursement.

As further evidence that the conduct here was knowing and willful, Rhodes also engaged in an "elaborate scheme" to disguise the reimbursement transactions in corporate accounting records. *Hopkins*, 916 F.2d at 214-15. Corporate ledger reports refer to the reimbursement checks in various ways: one reimbursement check was accounted for in the general ledger as "cash for travel"; one was described as "reimburse," a common entry for reimbursed business expenses; two were attributed to "petty cash," when normal petty cash transactions were less than \$50; and one was described only as "*."

26044132141

Moreover, it appears that Rhodes also disguised the transactions in corporate and personal tax returns, treating the funds as deductible business expenses by the various corporate and partnership entities in question. When independent auditors found that these funds were actually used for political contributions, they informed Rhodes that he would have to amend his tax returns. Rhodes subsequently filed amended returns for himself and the entities, treating at least some of the previously deducted funds as disbursements to himself though the funds had actually been paid to the reimbursed employees.

Thus, based on the Commission's investigation to date, there is reason to believe Bravo knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a) by making corporate contributions to the Herrera and Reid Committees in the names of others, and that Rhodes Ranch knowingly and willfully violated 2 U.S.C. §§ 441a(a)(1)(A) and 441f by making excessive contributions to the Herrera and Reid Committees in the names of others.

26044132142